

IC 01-1 TO AFI 38-203, COMMERCIAL ACTIVITIES PROGRAM

19 JULY 2001

★SUMMARY OF REVISIONS

This change updates the office of primary responsibility from AF/XPMR to AF/XPMS. It also makes changes to implement some of the Air Force Tiger Team recommendations, to ensure compliance with OMB Transmittal Memorandum 22, and to incorporate the procedures (issued in a 28 Mar 01 AF/XPM memo) to follow for exception to the SSET membership policy.

★1.8.5.15. Ensure the CSMSG meets its obligation for making certain that the appropriate individuals participating in an A-76 cost comparison or direct conversion (i.e., MEO Team, Independent Review Official/Team, PWS Team, Government Management Plan Development Team, Administrative Appeal Team, etc) receive the required A-76 training. Required training is identified in a matrix found at the Air Force Manpower & Innovation Agency (AFMIA) web site <https://www.afmia.randolph.af.mil/xpms/cs/Training/index.htm>. This training shall be upon study announcement or prior to starting a specific A-76 process, e.g. attend Performance Work Statement (PWS) training before writing a PWS.

★10.2.11. The Government should establish a source selection evaluation or advisory team. Individuals (civilian or military) who hold positions in the function under study, who have a direct personal interest in the outcome of the study (e.g., their spouse's employment, stock ownership, etc), or who participated in the development of the Government Management Plan should not be members of the team, unless the Head of the Contracting Activity (HCA) authorizes an exception. Exceptions will be authorized only in compelling circumstances and, in such cases, the HCA shall provide a written statement of the reasons for the action. The following process should be followed when requesting exceptions to this policy:

★10.2.11.1. The contracting officer or SSA will submit a request, with justification, to the HCA. Under DFARS 202.101, HCA refers to the director of contracting at the MAJCOM or to SAF/AQC, depending on who is doing the contracting. If the HCA concurs with the rationale given, the HCA has decision authority. The HCA should state concurrence and provide a written response back to the requester for the official files. Recommend the Servicing Manpower Office review these requests as the A-76 program manager.

★10.2.11.2. The criteria for approval are that a conflict of interest will not exist or that it can be mitigated as allowed in FAR Subpart 9.5, and that the circumstances are compelling enough to necessitate inclusion of these individuals on the SSEB.

★10.2.12. Individuals that fall into one of the categories in paragraph 10.2.11 can serve as nonvoting technical advisors to the source selection evaluation or advisory team. Technical advisors should not see contractor proposals. Preferably, the identity of offerors should be shielded during the evaluation process by removing contractor names and submitting Alpha or Numerical designators (e.g., Proposal A, Proposal B, Proposal C, etc.). In this way, actual and perceived conflicts can be avoided. Evaluators would not mistakenly reveal to a technical advisor the identity of contractors, even when discussing only an excerpt from a technical proposal.

★10.2.13. The MEO will be implemented (even when using preferential procurement, e.g. sole source, etc.) any time a cost comparison results in an in-house decision. (See paragraph 10.4. of this Instruction.) If a solicitation has been set-aside for a small business and the in-house is selected upon cost comparison, the MEO will be implemented. The solicitation will not be reissued on an unrestricted basis for competition among large businesses after comparing the in-house cost estimate to the contract offer. HQ USAF/XPM approval is required to implement the MEO when a cost comparison cannot be performed due to a lack of responsive offers from responsible contractor or ISSA sources (see paragraph 10.9 of this Instruction).

★18.2.6. The AAP is limited to a maximum of 30 calendar days from the date of the end of the Public Review Period during which the contracting officer received the appeals. In complex cases, extensions to the AAP may be granted by the command XP in 30-day increments as necessary to allow proper and prudent review. If the AAP is to exceed 60 calendar days, AF/XPM shall be notified.

★18.2.9. The commander appoints an AAP Authority who is either (1) at least two organizational levels above the official who certifies the MEO or (2) independent of the function(s) being cost compared. (For example if refuse collection is being cost compared, the AAP Authority may not be from Civil Engineering.) The individual appointed must also be one organizational level above or senior in rank to the Source Selection Authority (SSA). (For example, if the SSA is the Installation Commander, the AAP Authority must reside at the MAJCOM HQs.) It is recommended this appointment be made early in the cost comparison process to ensure the AAP Authority is independent of the cost comparison process in case an appeal is submitted.

★18.2.11. The AAP Authority shall appoint an AAP Review Team to ensure the various experts appropriately and adequately address the appealed items. This team resolves questions from directly affected parties relating to determinations resulting from the cost comparison. It is recommended this appointment be made early in the cost comparison process to ensure the team members are independent of the cost comparison process in case an appeal is submitted.

★18.2.11.2. The AAP Review Team must include at a minimum contracting, legal, functional, manpower, and financial representatives. Upon receipt of the appeal(s), the AAP Authority can scale down membership (based on the recommendation of the Servicing Manpower Office) if the appealed items do not warrant the full array of expertise originally identified. These members should, however, remain on call. AAP Review Team members must meet the criteria set forth in DoD Interim Guidance Attachment 5, Paragraph 4 (a), (b) and (c) of OSD (AT&L) Memorandum dated 3 April 2000.

★18.3.1. Appeals must be submitted within the public review period (that starts after the date all supporting documentation is made publicly available) to be considered.

★18.4.10. The members of the AAP Review Team analyze each element of the appeal, develop recommendations, and forward recommendations to the AAP Authority for final decision. The AAP Review Team and AAP Authority are to consult with anyone necessary, including the Source Selection Evaluation Team (SSET) chair for the specific study, in evaluating the appeal before arriving at any conclusions. It is critical that all information directly related to the issues under appeal is made available to the appeal review team and that all relevant facts are considered before a final decision is made.

★18.4.14. For A-76 cost comparisons with 300 or more positions, the AAP Review team prepares draft appeal findings for the AAP Authority's review and approval.

★18.4.14.1. The AAP Authority provides the draft appeal findings document to interested parties and AF/XPM and gives interested parties five working days to review and comment after public release.

★18.4.14.2. The AAP Authority provides draft appeal findings on cost comparisons below the 300-position threshold upon AF/XPM request.

★18.4.15. The AAP Review team reviews comments received, makes recommendations and forwards all information to the AAP authority. The AAP Authority makes the final AAP decision based on the information received from the AAP Review Team.

★18.4.16. The AAP Authority provides the appellant(s) a final decision in writing by return receipt requested, certified mail, in accordance with the timelines in paragraph 18.2.6. Other directly affected parties are also provided a copy of the final decision. Other interested parties may be provided a copy under FOIA.

★18.4.17. The AAP Authority maintains a copy of the final decision document and copies are provided to each AAP Review Team member, the contracting officer, servicing staff judge advocate, servicing manpower and organization office, and the IRO/Team. HQ USAF/XPMS and AFMIA/MIC will be

provided copies upon request.

★18.4.18. When there is a reversal of the tentative cost comparison decision, no subsequent or sequential appeals are permitted by any directly affected party. (See paragraph 18.2.7. of this Instruction.)

★18.4.19. After AAP has been completed and the AAP Authority has made a final AAP decision, the AAP Authority files an AAP After-Action Report (Figure 18.2.) and transmits the report to command XPM, AFMIA/MIC and HQ USAF/XPMS.

★18.4.20. The final cost comparison decision is then processed in accordance with Chapter 17 of this Instruction.